

ARKANSAS SUPREME COURT

No. CR O5-690

NOT DESIGNATED FOR PUBLICATION

CHRISTOPHER FRENCH
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered March 23, 2006

PRO SE APPEAL FROM THE CIRCUIT COURT
OF LITTLE RIVER COUNTY, CR 2001-4A,
HON. CHARLES A. YEARGAN, JUDGE

APPEAL DISMISSED

PER CURIAM

In 2001, Christopher French entered a plea of guilty to one count of possession of a controlled substance with intent to deliver, fifty-three grams of cocaine, and one count of delivery of a controlled substance. French received an enhancement of his sentence for simultaneous possession of drugs and firearms, and was sentenced to an aggregate term of 384 months' imprisonment. The judgment and commitment order was entered on October 2, 2001.

On May 9, 2005, French filed a petition for writ of *habeas corpus* in the trial court. In an order filed on May 23, 2005, the trial court denied French's petition. Appellant French, proceeding *pro se*, has lodged an appeal in this court from that order.

Any petition for writ of *habeas corpus* is properly addressed to the circuit court in the county in which the petitioner is held in custody, unless the petition is filed pursuant to Act 1780 of 2001.¹ Arkansas Code Annotated §16-112-105 (1987) requires certain procedural requirements be met when seeking a court to issue a writ of *habeas corpus*. The writ must be directed to the person in whose custody the prisoner is detained. Additionally, the writ should be issued by a court that has personal jurisdiction over the defendant. Otherwise, although a court may have subject-matter

¹Act 1780 of 2001, codified at Ark. Code Ann. §§ 16-112-201–16-112-207 (Supp. 2003), provides for the filing of a petition for writ of *habeas corpus* in the trial court if certain grounds are raised.

jurisdiction to issue the writ, a writ of *habeas corpus* cannot be returned to the court issuing the writ; a court does not have personal jurisdiction to issue and make returnable before itself a writ of *habeas corpus* where the petitioner is in another county. *See, e.g., State Dept. of Public Welfare v. Lipe*, 257 Ark. 1015, 521 S.W.2d 526 (1975); *Johnson v. McClure*, 228 Ark. 1081, 312 S.W.2d 347 (1958); *State v. Ballard*, 209 Ark. 397, 190 S.W.2d 522 (1945).

In the present matter, appellant is in the custody of the Arkansas Department of Correction at the Wrightsville Unit in Pulaski County. However, appellant filed his petition for writ of *habeas corpus* in the Circuit Court of Little River County. As appellant's petition for writ of *habeas corpus* was not filed pursuant to Act 1780, appellant should have filed his petition in the Circuit Court of Pulaski County. The Circuit Court of Little River County does not have personal jurisdiction over appellant and cannot release a prisoner who was not in custody within that county. *See Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991). Therefore, the Circuit Court of Little River County cannot issue a writ of *habeas corpus* that would be returnable to the court to effect appellant's release and appellant cannot obtain the specific relief he seeks in this matter.

Appeal dismissed.